

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

<b>ANGEL ENRIQUE NUNEZ ESCOBAR</b>	)	
<b>et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:11-0994</b>
	)	<b>Judge Campbell</b>
<b>LEE GAINES et al.,</b>	)	
	)	<b>Jury Demand</b>
<b>Defendants.</b>	)	

**MOTION TO CONTINUE TRIAL**

Defendants Sergeant Gary Kemper and Detective Shaun Hardin (collectively “the Metro Defendants”) hereby move the Court to continue the December 2, 2014 trial in this case pending the outcome of the Metro Defendants’ appeal. As background, this Court denied the Metro Defendants’ motion for summary judgment on September 4, 2014. (Doc. No. 513.) Because the Metro Defendants raised the defense of qualified immunity, they filed a Notice of Appeal seeking immediate appellate review of the denial of summary judgment. (Doc. No. 520.)

The Sixth Circuit’s resolution of the Metro Defendants’ appeal will determine whether trial can proceed against them. It is highly unlikely that the Sixth Circuit will resolve the Metro Defendants’ appeal in sufficient time for them to prepare for trial on December 2, 2014. Additionally, because of the conspiracy allegations in this case and the overlapping nature of some of the allegations, it would be unjust for trial to proceed without the Metro Defendants being present to defend themselves concerning any evidence or allegations that could potentially affect them in a future trial. Accordingly,

the Metro Defendants request that the December 2, 2014 trial be continued until after the Sixth Circuit's resolution of the Metro Defendants' appeal.<sup>1</sup>

Respectfully Submitted,

**THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY**  
SAUL SOLOMON (#11689)  
DIRECTOR OF LAW

/s/ James E. Robinson  
ALLISON L. BUSSELL (#23538)  
JAMES E. ROBINSON (#24680)  
R. ALEX DICKERSON (#27184)  
Assistant Metropolitan Attorneys  
108 Metropolitan Courthouse  
P.O. Box 196300  
Nashville, Tennessee 37219  
(615) 862-6341

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<sup>1</sup> Additionally, pursuant to the Court's September 4, 2014 order certifying a jurisdictional issue for immediate appeal (Doc. No. 511), the Federal Government Defendants have filed a petition with the Sixth Circuit seeking an interlocutory appeal. If the Sixth Circuit grants their petition, all of the Defendants, except the Clairmont Defendants, will have claims on appeal.

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been served electronically, via the CM/ECF filing system, on the 22<sup>nd</sup> day of September, 2014 to:

Andre Segura Lee Gelernt ACLU 125 Broad Street, 18 <sup>th</sup> Floor New York, NY 10004	Cecillia D. Wang ACLU 39 Drumm Street San Francisco, CA 94111
Harry Elliott Ozment Tricia Herzfeld Law Offices of Elliott Ozment 1214 Murfreesboro Pike Nashville, TN 37217	Matthew J. Piers José J. Behar Jenna L. Miara Caryn C. Lederer Hughes, Socol, Piers, Resnick & Dym, Ltd. 70 W Madison Street, Suite 4000 Chicago, IL 60602
Sam Delk Kennedy, Jr. Michael L. Roden Office of the United States Attorney 110 Ninth Ave. S, Suite A961 Nashville, TN 37203-3870	Justin B. Cox ACLU Foundation 1989 College Avenue NE Atlanta, GA 30317
Richard C. Mangelsdorf D. Randall Mantooth Leighann Ness Brian Walthart Leitner, Williams, Dooley & Napolitan, PLLC 414 Union St., Suite 1900 Bank of America Plaza Nashville, TN 37219	Thomas H. Castelli ACLU Foundation of TN P.O. Box 120160 Nashville, TN 37212

/s/ James E. Robinson